

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.1160 of 2018 and
CMP No.5994 of 2018

1. R.Balaji
2. R.Pattabiraman ... Petitioners

Vs

1. Lalitha Ramanujam
2. Jayanthi Gopinath
3. Prahalath
4. Niveditha Gopinath
5. D.Dorairajan
6. M/s.KSM Housing Pvt Ltd.
Rep. By its Authorised Signatory,
Mr.Rishab Bothra
7. Olympia Technology Park,
Plot No.1, SIDCO Industrial Estate,
Chennai -32. ... Respondents

Prayer: The Civil Revision petition filed under Section 115 of the Code of Civil Procedure, 1908, against the order and decree, dated 01.02.2018 in CMP No.1155 of 2017 in CMP No.457 of 2017 in A.S.(SR).No.10070 of 2017 on the file of the Principal Judge, City Civil Court, Chennai.

For Petitioner : Mrs.R.V.Rukmani

For Respondents : Mr.Pavithra Venkateswaran
(for R1 and R2)
No appearance for R3 to R7

ORDER

The appellants in A.S.(SR) No.10070 of 2017 have come up with this revision against an order of the learned Principal Judge, City Civil Court, Chennai made in CMP No.457 of 2017 an application filed by them seeking amendment of the cause title in the appeal.

2. The suit was laid by the appellants/petitioners herein seeking a declaration that the Power of Attorney document No.6985 of 2014 executed by the defendants 1, 2 and 4 in favour of the 6th defendant as null and void and not binding on the suit property and for permanent injunction restraining the defendants 1 to 4 from alienating the suit schedule property to any third party in any manner, until the rights of the plaintiffs are decided finally in the suit in O.S.No.1470 of 2003, pending on the file of the City Civil Court. The plaint came to be rejected by the trial Court. Aggrieved, the plaintiffs preferred an appeal in A.S.(SR) No.10070 of 2017.

3. The petitioner herein had filed an application in CMP No.457 of 2017, seeking condonation of delay in paying deficit Court fee. During the pendency of the application, a memo was filed by one S.Sampathkumar, authorised signatory of M/s.Olympia Tech Park (Chennai) Pvt Ltd stating that the 6th respondent namely M/s.KSM Housing Pvt Ltd., has merged with Olympia Tech Park (Chennai) Pvt. Ltd. with effect from 29.04.2016 under the Scheme of amalgamation approved by this Court. Even in the said memo it was pointed out that there is no such entity called Olympia Technology Park. Upon receipt of the memo the petitioners herein filed CMP No.1155 of 2017 seeking to amend the cause title in the appeal to change the name of the 6th respondent as Olympia Tech Park (Chennai) Pvt Ltd., instead of KSM Housing Pvt Ltd. No counter was filed.

4. The learned Principal Judge, City Civil Court, Chennai dismissed the application holding that the 7th respondent namely Olympia Technology Park is already on record and since the name of the 7th respondent and amendment of name in the cause title sought for are one and the same the amendment is unnecessary.

5. I have heard Mrs.R.V.Rukmani, learned counsel appearing for the petitioner and Mrs Pavithra venkateswaran, learned counsel appearing for the respondents 1 and 2. The other respondents though served, are not appearing either in person or through counsel duly instructed.

6. The facts narrated would show that the rejection of the request for amendment by the Principal Judge, City Civil Court is unsustainable. The appellant has filed an application in CMP No.457 of 2107 for condonation of delay in payment of deficit Court fee. It is brought to the notice of the appellants that one of the respondent is merged with another entity that too pursuant to the order of this Court. The relief sought for by the appellant is only pursuant to the memo filed by the respondents. It is also stated that there is no entity with the name Olympia Technology Park described as the 7th respondent.

7. I therefore find that the learned Principal Judge, City Civil Court, Chennai was wrong in dismissing the application. The amendment is only to the name of the 6th respondent which is necessitated because of the

order passed by this Court. Hence this Civil Revision petition is allowed and the order of the learned Principal Judge, City Civil Court, Chennai in CMP No.1155 of 2017 is set aside and CMP No.1155 of 2017 will stand allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order / Non speaking order

To
The Principal Judge, City Civil Court, Chennai

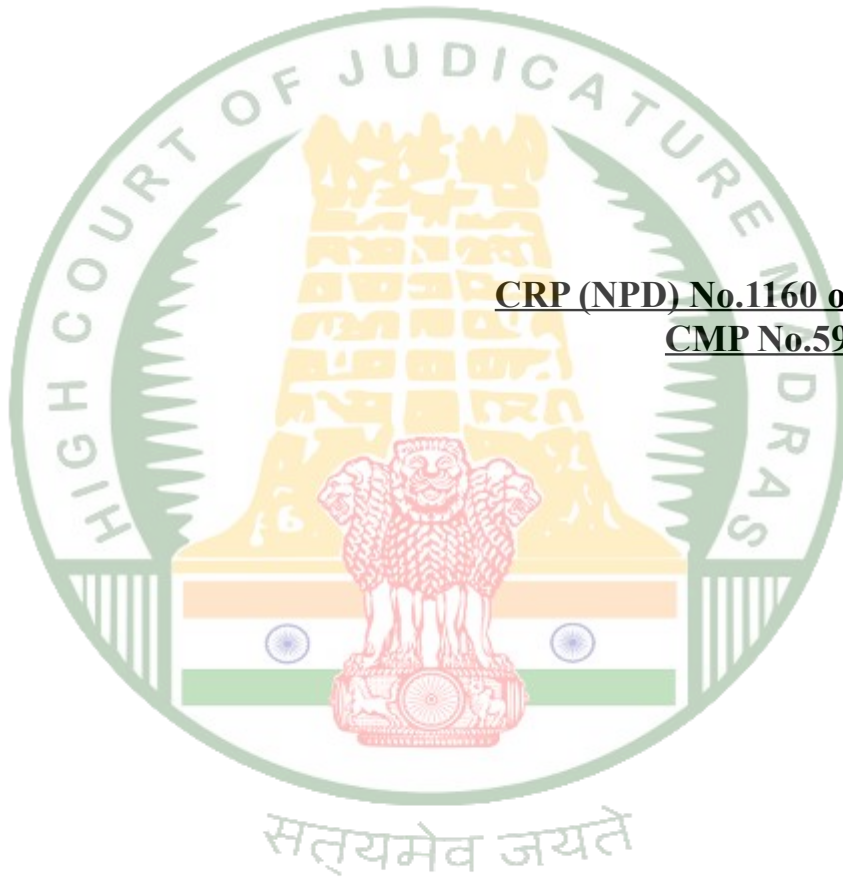


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